

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DORIS YVONNE WEAVILL,

Plaintiff,

vs.

WACHOVIA MORTGAGE, FSB F.K.A
WORLD SAVING BANK, organized and
existing under laws of the United States,
CALWESTERN RECONVEYANCE
CORPORATION,

Defendants.

Case No: 11-05541 SBA

ORDER

On November 16, 2011, Plaintiff Doris Weavill ("Plaintiff") filed the instant action against Defendants, alleging three state law causes of action arising out of a foreclosure proceeding on her residence. Compl., Dkt. 1. On January 20, 2012, Wells Fargo Bank, N.A., successor by merger to Wells Fargo Bank Southwest, N.A. formerly known as Wachovia Mortgage, FSB, formerly known as World Savings Bank, Fsb ("Defendant") filed a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure. Dkt. 9. Defendant noticed its motion to dismiss for hearing on May 15, 2012. Id.

Under Local Rule 7-3, Plaintiff's opposition or statement of non-opposition to the motion to dismiss was due no later than twenty-one (21) days before the hearing date, i.e., on or before April 24, 2012. See Civ. L.R. 7-3(a). This Court's Standing Orders specifically warn that "failure of the opposing party to file a memorandum of points and authorities in opposition to any motion shall constitute a consent to the granting of the motion." Civil Standing Orders at 5, Dkt. 2. Notwithstanding the requirements of Civil

1 Local Rule 7-3 and this Court's Standing Orders, Plaintiff has not filed a response to
2 Defendant's motion to dismiss.

3 The failure to file an opposition to a motion to dismiss in the manner prescribed by
4 this Court's Local Rules is a proper ground for dismissal. Ghazali v. Moran, 46 F.3d 52, 53
5 (9th Cir. 1995) (per curiam). Here, although Plaintiff's failure to file an opposition is a
6 proper ground to grant Defendant's motion to dismiss, the Court will afford Plaintiff the
7 opportunity to file a response to the motion by no later than seven (7) days from the date
8 this Order is filed. The Court, however, warns Plaintiff that the failure to file a timely
9 response will result in dismissal of this action with prejudice under Rule 41(b) of the
10 Federal Rules of Civil Procedure. Ferdik v. Bonzelet, 963 F.2d 1258, 1260 (9th Cir. 1992)
11 (pursuant to Rule 41(b), a district court may dismiss an action for failure to comply with
12 any order of the court). In the event that Plaintiff fails to file a timely response to the
13 motion, Defendant shall promptly notify the Court.

14 IT IS SO ORDERED.

15 Dated: 5/11/12


16 SAUNDRA BROWN ARMSTRONG
17 United States District Judge
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1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA

4 DORIS YVONNE WEAVILL,

5
6 Plaintiff,

7 v.

8 WACHOVIA MORTGAGE et al,

9 Defendant.
10 _____/

11 Case Number: CV11-05541 SBA

12 **CERTIFICATE OF SERVICE**
13

14 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
15 Court, Northern District of California.

16 That on May 14, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said
17 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing
18 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
19 located in the Clerk's office.

20 Doris Yvonne Weavill
21 929 Guava Drive
22 Modesto, CA 95356
23

24 Dated: May 14, 2012

25 Richard W. Wieking, Clerk

26 By: Lisa Clark, Deputy Clerk
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